

**Michigan IV-D Child Support Manual**  
**Michigan Department of Health and Human Services**

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[Exhibit 6.30E1: Support and Parenting Time Enforcement Act \(Excerpt\) \(MCL 552.625a\)](#)

## **1. Overview**

This manual section provides IV-D staff the standard processes for using Insurance Claims Data Match (ICDM) to locate insurance claims proceeds, including workers' compensation benefits that are available for liens. Office of Child Support (OCS) Central Operations staff will review the case and, when appropriate, process an administrative lien on the asset to offset the support arrearage.

## **2. Legal Background**

In 2002, Michigan Public Act (PA) 565 authorized the IV-D agency to administratively lien and levy financial assets without an additional court order. This PA was amended in 2004 (PA 484) to extend the administrative lien and levy process to include insurance proceeds and workers' compensation benefits.

In 2004, Michigan PA 483<sup>1</sup> required the IV-D agency to enter into an agreement with the Child Support Lien Network (CSLN) to develop a matching process for each obligor who maintains a policy with a CSLN-participating carrier and who owes at least two months of child support.

In February 2006, Congress passed the Deficit Reduction Act of 2005,<sup>2</sup> amending Section 452 of the Social Security Act to authorize additional comparisons of information concerning individuals owing past-due child support with information maintained by insurers. The federal Office of Child Support Enforcement (OCSE) has been working with the insurance industry and states' IV-D agencies to implement a centralized data match between insurance carriers and insurance networks through OCSE's Federal Parent Locator Service (FPLS).

The decision that OCS Central Operations staff will handle this enforcement action was supported by the Program Leadership Group (PLG) on October 20, 2008.

OCS Program Development Division (PDD) staff have not had the opportunity to meet with the Michigan Department of Licensing and Regulatory Affairs (LARA) Workers' Compensation Agency regarding the practical application of the ICDM process; they plan to initiate meetings after this manual section is published.

## **3. Insurance Claims Data Match (ICDM)**

ICDM is a data-matching process that identifies a file of delinquent child support obligors against a list of claims filed with insurance companies and workers' compensation benefits. The matching process will be conducted by OCSE and CSLN, but could be extended to another network or an insurance carrier. Matches

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<sup>1</sup> Michigan Compiled Law (MCL) 552.624b

<sup>2</sup> Public Law (PL) 109-171

returned from OCSE are accessed through the State Services Portal (SSP). Matches returned from CSLN are accessed through the CSLN website.

The delinquent obligor file sent to both OCSE and CSLN will include the following data fields:

- *Name;*
- *Address;*
- *Social Security Number;* and
- *Date of birth (DOB).*

### 3.1 Required Threshold

For a currently charging docket, the qualifying threshold for submission into the delinquent obligor file is a past-due support amount equal to 12 or more months of the monthly child support.<sup>3</sup> For arrearage-only dockets, the qualifying threshold is \$2,500 or more in past-due support arrears.

#### 3.1.1 Debt Types Used for Calculation

The following MiCSES debt types must be used to calculate the qualifying arrearage amount of past-due support:

- CS – Child Support
- MS – Medical Support - Client
- CC – Child Care
- ED – Education
- PC – Payee Birth Expenses
- BD – Genetic Test Costs Paid to the County
- BL – Genetic Test Costs Paid to the State
- AF – Attorney Fees<sup>4</sup>
- BI – Genetic Test Individuals
- MD – Medical Support - Medicaid
- MR – Medical Reimbursement
- OS – Out-of-State<sup>5</sup>
- PB – Payee Bonus

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<sup>3</sup> The statutory threshold for an administrative lien is two or more months in arrears. The ICDM threshold amount of 12 or more months for currently charging dockets was determined based on the financial institution data match (FIDM) threshold, since the delinquent obligor file applies to both FIDM and ICDM. At this time, no changes to the Michigan Child Support Enforcement System (MiCSES) have been approved to change the threshold amount.

<sup>4</sup> Attorney fees are payable to the custodial party (CP).

<sup>5</sup> The OS debt type is included only when the Federal Information Processing Standards (FIPS) code is populated and the *Obligation Maintenance* (OBLG) screen has “type” populated with a value other than “2” (which could be a participant or other party).

- RD – Recovery - MiSDU<sup>6</sup> Make Whole
- RB – Recovery - Bank Adjustment Transaction
- RC – Recovery - County Make Whole
- RM – Recovery - Misapplied Payments
- RS – Recovery - State Make Whole
- RT – Recovery - Internal Revenue Service (IRS) Tax Adjustment
- SS – Spousal Support
- WF – County Foster Care

Note: Currently, MiCSES is not functioning properly because it is including both initiating and responding interstate cases in the delinquent obligor file when the arrearage qualifies.

### 3.1.2 Multiple Dockets

If the obligor has multiple dockets, each docket individually must meet the arrearage threshold for an administrative lien. The arrearage amounts for all the qualifying dockets associated to the obligor will be combined when the obligor's Social Security number (SSN) is submitted in the delinquent obligor file for the ICDM process.

## 3.2 OCSE – Federal Matching of Insurance Claims

On a daily basis, MiCSES will send the delinquent obligor file directly to OCSE, who will match this information with insurance carriers participating with OCSE but not participating with CSLN. OCS Central Operations staff will research and act on these assets in the same fashion as for CSLN-identified claims.

### 3.2.1 Insurance Match (IM) Application in the SSP

The IM application allows states to receive, through the SSP, the insurance matches for lien and levy from the ICDM program. OCSE will conduct data matches for Central Operations staff to review. Central Operations staff must have the IM role in order to access insurance matches through OCSE.

### 3.2.2 Access to the IM Application

The IM application is available only to OCS Central Operations staff assigned to the ICDM program. OCS Central Operations staff who have a business need for the IM role but do not already have SSP access must complete a *IV-D Program Request for Computer Access* (DHS-393) form to request SSP access **and** the IM role. However, OCS Central Operations staff who have SSP access but do not have the IM role must

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<sup>6</sup> Michigan State Disbursement Unit

complete and submit a *IV-D Program Request for Changing Computer Access* (DHS-395) form to obtain the IM role.<sup>7</sup>

When OCS Central Operations staff are no longer assigned to tasks requiring use of the IM application, they must submit a *IV-D Program Request to Delete Computer Access* (DHS-392) form to delete access to the application.

OCSE loads new insurance matches daily to the IM application.<sup>8</sup> OCS Central Operations staff will receive an email notification from OCSE via the insurance email address ([mdhhs-ocs-insurance@michigan.gov](mailto:mdhhs-ocs-insurance@michigan.gov)) when the new matches are loaded.

To download insurance matches from the IM application, OCS Central Operations staff will:

- A. Log into SSP;
- B. Click the “Insurance Match” link on the left side of the screen;
- C. From the “Welcome” screen that appears, click the “Response Download” option on the left side of the screen; and
- D. Download the matches by clicking the “Download” button at the bottom of the screen.

Once OCS Central Operations staff have downloaded the insurance matches from the SSP IM application, they will follow the current ICDM policy for lien and levy.

### 3.3 Child Support Lien Network (CSLN)

OCS Central Operations staff will send the delinquent obligor file by overnight delivery to CSLN on a monthly basis. Claim information processed by CSLN will be made available to Central Operations staff and the ICDM coordinator daily through a secure database accessible through the Internet. All access and transfer of personal information will be encrypted for privacy and confidentiality. An authorized remote user must sign a confidentiality agreement to be granted access to the secure site. OCS Central Operations staff will provide the confidentiality agreement to sign and will retain the signed agreement.

Once an insurance carrier or workers’ compensation benefit matches an obligor with a pending claim through CSLN, OCSE, another network or an insurance carrier, OCS Central Operations staff will review the case and, when

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<sup>7</sup> Ref: [IV-D Memorandum 2013-002, Expansion of the State Services Portal \(SSP\), Modification of Security Forms, and Sources for Obtaining Federal Employer Identification Numbers \(FEINs\)](#), for more information.

<sup>8</sup> Ref: [MiCSES Customer Information Guide: State Services Portal](#) for more information.

appropriate, process an administrative lien on the asset to offset the child support arrearage.

#### 4. Reviewing the Insurance Matches

For security reasons, only OCS staff and the ICDM coordinator role in MiCSES will be able to access insurance claim and workers' compensation information on CSLN, and/or Data Warehouse. All IV-D staff must use the data for IV-D purposes only, pursuant to [Section 1.10, "Confidentiality/Security," of the Michigan IV-D Child Support Manual](#).

ICDM coordinators will use the CSLN database and Data Warehouse as discovery tools for the lien and levy process. ICDM coordinators may review the insurance levy report that will be provided by OCS Central Operations. The insurance levy report is a Microsoft® Excel spreadsheet listing the insurance data matches that OCS Central Operations reviewed. OCS Central Operations will send the insurance levy report to the FOC confidential email address for the ICDM coordinator on the 15<sup>th</sup> and 30<sup>th</sup> of each month.<sup>9</sup> The spreadsheet will identify the following information:

- Docket county;
- Docket number;
- IV-D case(s) number(s);
- Obligor's last name;
- Obligor's first name;
- Whether the case is initiating (yes or no);
- The date the notice of lien was sent to the carrier;
- Whether the lien was perfected (yes or no); and
- The reason why a lien was not perfected, if applicable.<sup>10</sup>

If OCS Central Operations does not perfect an administrative lien, the ICDM coordinator may pursue a judicial lien or lump-sum income withholding notice (IWN) when appropriate.

OCS Central Operations staff will refer a workers' compensation case with continuing monthly benefit payments to the ICDM coordinator for possibly processing an IWN rather than a lien.<sup>11</sup>

##### 4.1 Eligible Dockets and Eligible Proceeds

OCS Central Operations staff will review the data matches from CSLN and OCSE to determine if the criteria for the lien have been met and the assets are

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<sup>9</sup> When the 15<sup>th</sup> or 30<sup>th</sup> is a weekend or holiday, the spreadsheet will be sent to the ICDM coordinator the following business day.

<sup>10</sup> Ref: Subsection 4.2, "Ineligible Dockets and Ineligible Proceeds" of this manual section for more information.

<sup>11</sup> Ref: [Section 6.03, "Income Withholding," of the Michigan IV-D Child Support Manual](#).

eligible for administrative lien and levy before sending the *Notice of Lien and Levy* (FEN340).<sup>12</sup> OCS Central Operations staff will:

- Consider the type of claim located;<sup>13</sup>
- Calculate the amounts for the correct support debt types and eliminate all recovery accounts and attorney fees from the identified arrearage amount because these are not considered as support. If the arrearage threshold amount has not been met, then staff must set the case aside from the lien and levy process. **Debt types to be excluded are AF, RB, RC, RD, RM, RS, and RT;**<sup>14</sup>
- Exclude all initiating cases;<sup>15</sup>
- Review the *Case Member Details* (CASE) screen and exclude all cases that have an “L” in the *IV-D Case Type*;
- Exclude all spousal-support-only cases;
- Review the *Notes Processor* (NOTE) screen to determine if a lien was already filed on the same insurance or workers’ compensation claim;
- Review the *Enforcement Processor* (ENFP) screen for lump-sum IWNs on insurance or workers’ compensation claims; and
- Review the *Tax Offset Information and Update* (TAXI) and *Support Order Entry* (SORD) screens for FIDM/ICDM exclusion.

Note: Policies that are jointly issued to an obligor and another person with an interest in the asset may also be subject to lien and levy. OCS Central Operations staff may review a claim further to determine the amount of interest the obligor has in it. Unless it is determined that 100 percent of the funds belong to the joint owner, OCS Central Operations will continue to pursue the lien regardless of the obligor’s percentage of ownership of the proceeds.

#### 4.2 Ineligible Dockets and Ineligible Proceeds

Unless excluded by statute or policy, insurance claims and workers’ compensation settlements are subject to administrative lien and levy. Michigan statute excludes certain types of claims from administrative lien and levy. The carrier is responsible for determining exceptions that may apply and the amount to freeze. Proceeds exempted from a lien may be for any of the following reasons:

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<sup>12</sup> Ref: Subsection 5.2, “Initiating Lien/Levy” of this manual section for more information.

<sup>13</sup> Types of claims include but are not limited to life, automobile, property liability, workers’ compensation, personal injury, homeowner’s liability, medical premise/owner’s policy, and product liability.

<sup>14</sup> Help Desk ticket #256015 was entered to calculate the amount of support debt types correctly on MiCSES.

<sup>15</sup> At this time, the Central Operations Interstate Coordinator will review the case to determine if any further enforcement action is needed. The Central Operations Interstate Coordinator may contact the local Friend of the Court (FOC) for direction on how to proceed.

- Attorney fees, court costs and other litigation costs, including but not limited to medical examination costs, expenses for reports, deposition fees, court reporter fees, and record copy fees;
- An amount to reimburse an insurance company for the expense incurred by the insurance company in responding to a lien and levy;
- Vocational rehabilitation costs, reimbursements, or credits incidental to long- or short-term disability programs or to pension or welfare benefits funds; or
- Money to be paid under an insurance policy for the repair or replacement of real or tangible personal property.

Refer to the Support and Parenting Time Enforcement Act (SPTEA)<sup>16</sup> for a complete list of the exceptions to a lien identified in MCL 552.625a(6).

The types of insurance claims that are exceptions to an administrative lien may still be subject to lien and levy through the judicial process or through the lump-sum IWN process.

#### 4.2.1 Bankruptcy

Federal law prohibits pursuing a lien after the obligor files a petition for bankruptcy. OCS Central Operations staff must not file a lien against the property of an obligor who has filed for bankruptcy.<sup>17</sup>

If OCS Central Operations staff have already processed a lien on the insurance claim or workers' compensation payment, the lien may continue, but OCS Central Operations staff must not seize the assets nor have them sent to the MiSDU until after the bankruptcy is completed or otherwise ordered.

#### 4.2.2 Dockets Exempted by the FOC

The ICDM coordinator may exempt a case before the insurance claim lien is perfected by contacting OCS Central Operations by phone or email. To exempt the case from lien on MiCSES, the ICDM coordinator must exempt the docket from FIDM on the TAXI screen or set the *ENF Exempt IND* to "Yes" on the SORD screen.

The ICDM coordinator must only exempt IV-D cases eligible for insurance lien and levy when:

- A judge orders the exclusion of the case from lien and levy on the insurance asset or workers' compensation benefit;

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<sup>16</sup> Ref: [Exhibit 6.30E1](#).

<sup>17</sup> Ref: [Action Transmittal \(AT\) 2008-014, REVISED: The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 \(Bankruptcy Act\)](#).



- A motion to modify support or custody is pending final determination by the court; or
- There is a verified medical situation in which the obligor needs the funds for life-saving measures or to prevent serious medical complications.<sup>18</sup>

When one of the above conditions occurs, the ICDM coordinator will enter the appropriate remarks on the NOTE screen.

## 5. Administrative Lien Process

### 5.1 Providing Notice of Lien/Levy by Operation of Law

MCL 552.625a requires obligors to be notified that their real and personal property, including insurance claims, are subject to lien and levy by operation of law. This notice is provided by the *Notice of Rights and Responsibilities* (FEN003)<sup>19</sup> and the *State Tax Refund Pre-Offset Notice* (SPON) (FEN150).<sup>20</sup>

MiCSES began automatically generating the FEN003 in August 2008. The FEN003 provides notice to the obligor that the IV-D program may place a lien on his/her property by operation of law, if the obligor is two or more months delinquent in paying child support.

Before starting the lien process, OCS Central Operations staff must determine whether a FEN003 was sent to the obligor at any time or a SPON was sent for the 2008 tax year or thereafter. If MiCSES does not show that a FEN003 or SPON<sup>21</sup> has been sent to the obligor, OCS Central Operations staff will generate and mail the FEN003 from MiCSES and indicate on the NOTE screen that the notice has been mailed to the obligor.

### 5.2 Initiating Lien/Levy

OCS Central Operations staff will:

- 5.2.1 Verify that the obligor meets the required thresholds for lien and levy enforcement;

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<sup>18</sup> The carrier is responsible for determining the appropriate exceptions that apply to the lien pursuant to MCL 552.625a(6). The IV-D agency is not responsible for protecting the obligor with such exceptions.

<sup>19</sup> Ref: [AT 2008-030, Generating the Notice of Rights and Responsibilities \(FEN003\) for the Michigan Child Support Enforcement System \(MiCSES\) 5.1 Release](#). The FEN003 can be found at: <https://mi-support.state.mi.us/Policy/FEN003.pdf>.

<sup>20</sup> Ref: [Section 6.21, "Tax Refund Offset," of the Michigan IV-D Child Support Manual](#).

<sup>21</sup> The ENFP screen will indicate an "FG" status on the *Case Remedy* major activity when the SPON or FEN003 was generated on MiCSES and sent to the obligor.

5.2.2 Research the claim depending on the information provided by CSLN. Insurance claims are categorized according to the following:

- Personal injury;
- Property damage;
- Workers' compensation claims;
- Other civil action claims; or
- Invalid response.

5.2.3 Add the asset information to the *Financial Assets* (ASFN) screen and open the *Administrative Lien* (ADLV) major activity on the ENFP screen for each qualifying docket; and

5.2.4 Complete the certificate of mailing on the FEN340 and send to the carrier by first-class mail the administrative FEN340, the *Addendum* (FEN340a), the *Cover Letter to FI/Carrier* (FEN341), and the *Notice of Rights and Responsibilities of Obligor (Payer) and Financial Institution, Insurer, or Carrier* (FEN342). The signature on the certificate of mailing and the signature of the authorized representative of the Issuing Agency can be the same or a different staff person at OCS Central Operations. OCS Central Operations must obtain a copy of the FEN340 and FEN340a to preserve proof of service.

Note: If the obligor has multiple dockets, OCS Central Operations staff may submit one FEN340 for all dockets that meet the administrative lien threshold at that time.<sup>22</sup> OCS Central Operations staff will not submit those dockets that do not meet the lien threshold. The FEN340 will be accompanied by the FEN340a, which details the specific docket number, docket county, and arrearage balance.

## 6. Perfecting a Lien

A lien is “perfected” once the lien is submitted to the insurance carrier or workers’ compensation insurer, and proper notices have been provided as required by law. After the lien is perfected, the insurance claim or workers’ compensation settlement may be levied (seized) according to state law.<sup>23</sup> Insurance claims and workers’ compensation benefits may not be immediately paid to the obligor, since the settlement process could take a considerable amount of time before the proceeds are awarded. Therefore, as a result of the delay, the lien amount may not accurately reflect the actual arrearage amount at the time proceeds are awarded and distributed. Currently there is no plan to increase the lien amount to make it

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<sup>22</sup> If a case(s) reaches the eligibility threshold after a lien was processed, a new lien must be filed for that case(s) in order for a lien to apply to the newly eligible case.

<sup>23</sup> MCL 552.625a-i

consistent with the actual arrears amount on MiCSES.<sup>24</sup> OCS Central Operations staff will not increase lien amounts without restarting the entire lien process, including the time period for challenging a lien. The process of sending an amended lien to increase the levy amount will be determined at a later date.

## 6.1 Carrier Responsibilities<sup>25</sup>

### 6.1.1 Notice to Challenging Party

The SPTEA requires that after OCS Central Operations staff send the FEN340 on an insurance claim or workers' compensation payment, the carrier will freeze the payment due to the obligor. The carrier must provide notice of compliance by completing the disclosure on the FEN340 and sending it to the IV-D agency (OCS Central Operations), the obligor, and other party with an interest in the asset within two business days after freezing the money to be paid.

### 6.1.2 Amount to Freeze

With the exception of workers' compensation awards, the carrier must freeze the obligor's claim payment up to the amount of the support arrears provided on the notice of lien.<sup>26</sup> The carrier must only freeze and/or levy the amount of support arrears up to a maximum of 50 percent of the workers' compensation order, settlement, redemption order, or voluntary payment.<sup>27</sup>

## 6.2 OCS Central Operations Responsibilities

OCS Central Operations staff will follow up with the carrier by telephone or letter if they do not receive the completed disclosure from the carrier indicating the **status of the freeze** within 10 business days from when the FEN340 was sent. The *Lien/Levy Action Required* form (FEN343) will ask the carrier to immediately send the FEN340 to OCS Central Operations by fax to 517-455-7978.

OCS Central Operations staff will assist the challenging party with questions about the lien and provide administrative reviews when an objection to the lien is received. OCS Central Operations staff must not provide legal advice.

OCS Central Operations staff will manually generate and process the FEN340, FEN340a, FEN341, FEN342, and FEN343, as well as the following:

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<sup>24</sup> The ICDM coordinator may choose to send a periodic IWN to the carrier for the current support and/or an arrearage payment amount.

<sup>25</sup> Insurer or carrier responsibilities are determined by MCL 552.625d and MCL 552.625e. The carrier responsibilities described in this manual section are intended to be informational for IV-D staff.

<sup>26</sup> Exceptions to the lien are identified in MCL 552.625a(6).

<sup>27</sup> MCL 552.625a(6)(d)

- *Request for Administrative Review of Lien* (FEN344);
- *Determination on Levy* (FEN345);
- *Notice to Release Lien* (FEN346);
- *Notice of Request for Administrative Review* (FEN347);
- *Order Regarding Levy of Assets* (FEN348); and
- *Request for Administrative Review – Referred to Friend of the Court (FOC) for Investigation* (FEN349).

OCS Central Operations staff will manually generate and process these forms without the use of MiCSES. OCS Central Operations staff will use the forms located on OCS SharePoint, an internal website, until the forms are accurately updated on MiCSES. Any necessary changes to the forms will be completed by OCS PDD.

### 6.3 Challenging Party Responsibilities

The challenging party will be responsible for objecting to a lien that (s)he believes should be removed or modified.

## 7. Review or Challenge to a Lien

The obligor or other party with an interest in the asset has the right to challenge an administrative lien on an insurance claim or workers' compensation payment.

### 7.1 Rights and Responsibilities

The FEN342 informs the obligor or other interested party and carrier of the following information:<sup>28</sup>

- The obligor or other interested party's potential insurance award or workers' compensation payment has been intercepted;
- The insurance claim payment or workers' compensation payment will be sent to the MiSDU if the obligor or other interested party does not ask for an administrative review within 21 days of the date the notice was sent (the date the claim funds were frozen according to the lien);
- The request for an administrative review of the lien must be in writing;
- The obligor or other interested party must base his/her request for review only on a mistake of fact;<sup>29</sup>
- After the administrative review is completed, the obligor or other interested party may challenge the lien and levy by filing a motion in the circuit court within 21 days from the date on the FEN345; and

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<sup>28</sup> MCL 552.625c(3)

<sup>29</sup> Ref: Subsection 7.4.2, "Mistake of Fact" of this manual section for more information regarding mistake of fact.

- For other information regarding the lien, including the payoff amount, the obligor or other interested party must contact OCS Central Operations.

## 7.2 Requesting a Central Operations Administrative Review of the Lien/Levy

The obligor or other interested party will have 21 days after the FEN340 has been sent by the carrier to request an administrative review of the lien/levy. The obligor or other interested party may request the review by submitting a written request or:

- Obtaining the FEN344 from OCS Central Operations;
- Filling out the request form, indicating the basis for challenge; and
- Returning the form to OCS Central Operations.

OCS Central Operations staff will accept a written request for an administrative review. However, the written request must provide details sufficient to make an argument for a mistake of fact. If the request does not provide sufficient information, OCS Central Operations staff will send the obligor or other interested party the FEN344.

Note: OCS Central Operations staff must not accept telephone requests for an administrative review. If callers ask for a review, OCS Central Operations staff must inform them that a written request is required.<sup>30</sup> The request must be postmarked within 21 days of the date the carrier notified the obligor or other interested party that payment is subject to an intercept. The obligor or other interested party may also fax the request for an administrative review to 517-455-7978.

## 7.3 Scheduling a Review

When OCS Central Operations staff receive a written request for a review that is based on proper grounds (mistake of fact), they must send the carrier the FEN343. The FEN343 will inform the carrier that a challenge has been received and that the funds must not be forwarded to the MiSDU at this time or until the carrier is further notified by OCS Central Operations. OCS Central Operations staff will schedule and hold the review with the challenging party within seven business days<sup>31</sup> after receiving the written request. The review will be held over the telephone. OCS Central Operations staff will contact the challenging party at the telephone number provided on the FEN344 to arrange for a telephone appointment.

If the challenging party does not request a review by phone by either providing a phone number or checking the box on the FEN344, then OCS Central

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<sup>30</sup> MCL 552.625f(1): The payer may challenge the levy by submitting a written challenge to the lien.

<sup>31</sup> Timing for the administrative review process follows MCL 552.625f and Michigan Court Rule (MCR) 1.108.

Operations will base the review determination on the information that the challenging party supplied.

If the challenging party provides insufficient and/or inadequate information to claim a mistake of fact or to claim the award settlement should not be intercepted for child support purposes,<sup>32</sup> then OCS Central Operations staff will send the challenging party the FEN347. The FEN347 informs the challenging party that if no further information is provided within 10 days from the mailing date, OCS Central Operations will proceed with the levy.

## 7.4 OCS Central Operations Review Procedures

### 7.4.1 Identifying the Challenging Party

At the time of the review, the OCS review officer or designee must verify the challenging party's identity. This is important because the topics that the reviewer will discuss are financial in nature and confidential.

OCS Central Operations staff will identify the caller by verifying the following information:

- Names of the parties;
- His/her address;
- His/her SSN;
- His/her DOB; and
- Docket number or county of order.

If the caller is a person with an interest in the asset, OCS Central Operations staff will confirm the name, address and other identifying information as shown in the carrier's records. If the person with an interest in the asset has requested a change of address, OCS Central Operations staff must advise him/her to notify the carrier of the correct address. OCS Central Operations must not change the address on record unless contacted by the carrier with an updated address.

If the caller is an attorney representing either the obligor or a person with an interest in the asset, the caller must submit a signed release of information.<sup>33</sup> OCS Central Operations staff may ask additional questions if the identity of the caller is questionable.

### 7.4.2 Mistake of Fact

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<sup>32</sup> Exceptions to the lien are identified in MCL 552.625a(6).

<sup>33</sup> Ref: [IV-D Memorandum 2014-009, Updates to Michigan IV-D Child Support Manual Section 1.10, "Confidentiality/Security."](#)

MCL 552.625f(2) limits the grounds to challenge the administrative lien and levy on the insurance claim or workers' compensation benefit. The OCS review officer or designee must only consider the argument that there was a mistake of fact in:

- The obligor's identity (the person owing support is not the policy holder, and the claim filed with the carrier has no association with the person owing support);
- The amount of the obligor's past-due support; or
- Another mistake of fact.

The OCS review officer cannot consider any other arguments in the administrative lien review. If the requester argues grounds other than these (e.g., he is not the father; [s]he failed to appear at the original hearing or didn't know about the underlying order), the OCS review officer must deny the request, proceed with the levy, and send the challenging party the FEN345, which informs the challenging party that (s)he has a right to challenge the lien and levy by filing a motion in the local circuit court within 21 days after the OCS review officer renders a decision on the administrative review.

## 7.5 OCS Central Operations Determination

After holding the review and considering relevant evidence, the OCS review officer or designee will make one of the following determinations:

- Challenge denied because a mistake of fact was not proven;
- Challenge acknowledged because a mistake of fact was proven – the insurance payment amount will be released or modified;
- Challenge denied because the uncontested arrears amount exceeds or equals the amount frozen by the financial institution, insurer, or carrier;
- Review adjourned to be reviewed by the FOC or the court; or
- Challenge withdrawn because OCS Central Operations staff and the obligor have agreed to pay an amount equal to the amount shown on the lien through a different payment method (e.g., the obligor has borrowed money), or the obligor or other interested party has voluntarily withdrawn his/her request to challenge the lien.

### 7.5.1 Challenge Denied

OCS Central Operations staff will document the decision on the FEN345 and mail it to the challenging party within seven days of the administrative review. The FEN345 will indicate that the lien will proceed, and the challenging party has the right to challenge the lien and levy by filing a motion in the local circuit court within 21 days after receiving the

FEN345. OCS Central Operations staff will then enter the determination on the ENFP and NOTE screens.

After the 21-day period to object to the lien through the circuit court has expired, OCS Central Operations staff will send the carrier the FEN343 stating that a determination has been made regarding the validity of the lien, and funds should be forwarded to the MiSDU with a copy of the FEN340.<sup>34</sup>

#### 7.5.2 Challenge Acknowledged

OCS Central Operations staff will notify the applicable carrier(s) and the challenging party to terminate the lien. OCS Central Operations staff will use the FEN346 for this purpose and include a copy of the FEN340. The signature on the FEN340 for the certificate of mailing and the signature of the authorized representative of the Issuing Agency can be the same or a different staff person at OCS Central Operations. A copy of the FEN346 must be obtained by OCS Central Operations to preserve proof of service. OCS Central Operations staff will enter the determination on the ENFP screen.

If the OCS review officer determines the amount of arrears submitted for levy should be reduced, (s)he will send the carrier the FEN343 after the 21-day period to object to the lien through the circuit court has expired. This letter will ask the carrier to amend the lien to a lower amount. Currently there is no process in place to amend the lien to an increased amount.<sup>35</sup>

#### 7.5.3 Review Adjourned

If the OCS review officer cannot make a determination by reviewing the information provided by the obligor and MiCSES regarding the amount of the obligor's past-due support, (s)he will ask the FOC to investigate further. The OCS review officer will send the FEN349 to the obligor, indicating the matter has been adjourned and is being reviewed. The OCS review officer will notify the ICDM coordinator to review the arrearage. The ICDM coordinator must respond or request additional time within 14 calendar days. If the ICDM coordinator does not respond within this time period, the OCS review officer will request a status update by contacting the ICDM coordinator or alternate coordinator<sup>36</sup> prior to making a determination. If no information is received from the ICDM coordinator by the requested date, the OCS review officer will make a decision based on the information presented by the obligor. If the

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<sup>34</sup> Ref: Subsection 9, "Levy and Release or Modification of Lien" in this manual section.

<sup>35</sup> Ref: Subsection 6, "Perfecting a Lien" in this manual section.

<sup>36</sup> Ref: Subsection 10.1, "FOC ICDM Coordinators" in this manual section.



OCS review officer has reason to believe that the obligor has a basis for the mistake in arrears, then the OCS review officer will either release the lien or modify the lien accordingly.

#### 7.5.4 Challenge Withdrawn

OCS Central Operations staff will send the carrier the FEN346 only after the amount indicated on the lien has been paid in full by the obligor through a different payment method. The signature on the FEN346 for the certificate of mailing and the signature of the authorized representative of the Issuing Agency can be the same or a different staff person at OCS Central Operations. OCS Central Operations must obtain a copy of the FEN346 to preserve proof of service.

After 21 days from the date the FEN345 was sent to the obligor, OCS Central Operations staff will send the carrier the FEN343 when the obligor or other interested party voluntarily withdraws his/her request to challenge the lien. The FEN343 states that a determination has been made regarding the validity of the lien, and funds should be forwarded to the MiSDU with a copy of the FEN340.

#### 7.6 De Novo Review

If the OCS review officer finds there was no mistake of fact, the challenging party will have 21 days from the date on the FEN345 to file a motion before the circuit court to challenge the levy.<sup>37</sup> OCS Central Operations staff will not notify the carrier to release the funds until after the 21-day period has elapsed.

### 8. Circuit Court Motion and Review

If the challenging party objects to the lien by filing a motion directly with the circuit court, then (s)he or his/her attorney must serve OCS Central Operations with a notice of hearing. The FEN345 notifies the challenging party of this responsibility. OCS Central Operations staff will record on the MiCSES NOTE screen that a copy of the motion has been received and the notice of hearing information. If the FOC receives a copy of the motion and notice of hearing, the ICDM coordinator will check the NOTE screen to verify that OCS Central Operations has received the motion and the information regarding the hearing date and time. If the NOTE screen does not indicate a copy was received, the ICDM coordinator will forward a copy of the motion and notice of hearing by fax to OCS Central Operations within five business days following receipt of the motion.

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<sup>37</sup> MCL 552.625h

## 8.1 Attorney General (AG) Representation of OCS Central Operations

State law allows an obligor to file a motion directly with the circuit court or seek a de novo review with the circuit court if OCS Central Operations held an administrative review and found there was no “mistake of fact.”

The AG’s office will represent OCS Central Operations in any court proceedings related to the lien.

When asking the AG for assistance on a case, the Central Operations Departmental Manager will coordinate the request by first contacting the AG’s office to explain that a request for assistance is forthcoming. Central Operations staff will then complete the *Office of Child Support Attorney General Assistance Request Form* (DHS-658).<sup>38</sup> The completed form must be signed by the Central Operations Departmental Manager, the Office of Child Support Director, and a representative of Michigan Department of Health and Human Services (MDHHS) Legal Services. The Central Operations Departmental Manager will obtain the required signatures and then send the form via encrypted email<sup>39</sup> to the AG’s office after all the required signatures have been obtained. OCS Central Operations staff will also forward the motion and supporting documents to the AG’s office, and will provide all information related to the motion that AG staff request. OCS Central Operations will also forward a copy of the FEN348 as a suggested order that the court may use to record the determination.

AG staff will inform OCS Central Operations staff of the court’s determination and will forward a copy of the court’s order when available. OCS Central Operations staff will enter the disposition into MiCSES. The court’s order will either be signed by the AG representative, the challenging party, and the judge as a consent order, or sent to the court to be signed by the judge according to MCR 2.602(B)(3).

## 8.2 Grounds for the Circuit Court Hearing

MCL 552.625h governs the circuit court hearings related to judicial review of administrative liens.

## 8.3 OCS Central Operations Actions After Circuit Court Order

Once an obligor or other interested party files a motion with the circuit court, OCS Central Operations staff will notify the carrier to act in accordance with the court decision by sending a copy of the court order.

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<sup>38</sup> The DHS-658 is for use by OCS staff only and is available on SharePoint.

<sup>39</sup> Ref: Section 1.10 of the *Michigan IV-D Child Support Manual* for information regarding encrypted email.

### 8.3.1 Court Upholds Lien

If the court upholds the administrative lien, OCS Central Operations staff will submit a copy of the court's order to the carrier and continue with the levy of the assets.

### 8.3.2 Court Does Not Uphold Lien

If the court does not uphold the administrative lien, OCS Central Operations staff will submit a copy of the court's order and the FEN346 to the carrier.

## 9. Levy and Release or Modification of Lien

### 9.1 Levy – Sending Assets to the MiSDU

It may take a long time for assets to be levied based on the nature of the insurance or workers' compensation claim. If the carrier was not notified that a challenge was received, the carrier must forward the funds to the MiSDU either:

- Within one to seven days after 28 days have passed since the FEN340 was sent to the obligor; or
- Once the insurance or workers' compensation claim has been settled, whichever occurs later.

The FEN342 instructs the carrier to send a copy of the FEN340 and the payment withheld to:

MiSDU  
P.O. Box 30355  
Lansing, MI 48909-7855

The MiSDU will use the FEN340 for identification purposes, in order to apply the levy payment to the appropriate docket. The payment will be held as an unidentified receipt in the MiSDU payment processing application for a minimum of 14 days. MiSDU will send Central Operations staff a daily report of all ICDM payments received on that processing day. MiSDU will transmit the payment information to MiCSES as an unidentified "3" FIDM<sup>40</sup> payment upon receipt of direction from Central Operations staff. If the total amount of past-due support the obligor owes under all support orders subject to levy is more than the amount of money a carrier forwards to the MiSDU, then OCS Central Operations staff must determine the appropriate allocation. OCS Central Operations staff must calculate the allocation by:

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<sup>40</sup> MiCSES cannot accept payments from the MiSDU with a receipt source of "G" levy; therefore, insurance lien payments will be sent to MiCSES with a receipt source of "3" FIDM.

- Dividing the past-due support amount under each support order subject to levy by the total of the past-due support amounts under all of the support orders subject to levy to equal a percentage per support order; and
- Multiplying the total amount of money forwarded by the percentage per support order subject to levy.

OCS Central Operations staff will complete the DHS-307<sup>41</sup> to have MiSDU back out the receipt and repost it as a “G” levy (i.e., lien) payment and apply it according to the allocation calculated above.

If the carrier forwards all the money to the MiSDU and all the money is returned to the obligor due to a mistake of fact or court order, the Title IV-D agency must:<sup>42</sup>

- Reimburse the obligor for a fee, cost or penalty that the carrier assessed against the obligor for converting the financial assets to cash; and
- Compensate the obligor for the amount of interest that the assets would have earned had they not been converted and forwarded to the MiSDU, to the extent that the interest can be determined with a reasonable degree of certainty.<sup>43</sup>

## 9.2 Release or Modification of Lien

A lien may be released or modified downward for the following reasons:

- OCS Central Operations staff have determined through the administrative review process that the lien was not appropriate because of a mistake of fact;
- The circuit court has determined the lien was not appropriate and ordered it to be released;
- The circuit court has determined the lien amount was not accurate and ordered it to be modified; or
- The obligor has paid the child support arrears with a different payment method.

Within seven days of the determination by the administrative review officer or the court that there was a mistake of fact, OCS Central Operations staff must notify the carrier to terminate the lien or modify it to a lower amount. When OCS Central Operations staff release a lien because the lien was not appropriate or the funds are not attachable by law, they will send the FEN346 to the obligor and carrier, instructing the carrier to release the funds. When the circuit court

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<sup>41</sup> Ref: [AT 2005-011, Submission of the Request for Central Receipt Adjustment/Suspense Work Form \(DHS-307\), Revised Computer Access Forms, Access to TierTrac.](#)

<sup>42</sup> MCL 552.625i

<sup>43</sup> If MiSDU or OCS Central Operations staff must perform the action identified here, they will consult with OCS PDD staff for further direction.

determines the lien amount was not accurate, OCS Central Operations staff will send the FEN348 to the obligor and carrier, to modify the lien amount to a lower amount. OCS Central Operations staff will then update the NOTE screen, indicating the reason for release, and will close the process.

## 10. Coordination of Activities

### 10.1 FOC ICDM Coordinators

Each FOC office will designate one staff member as the office's ICDM coordinator.<sup>44</sup> The ICDM coordinator will be the same person and will have the same contact information as the FIDM coordinator reported to OCS Central Operations. The name and contact information for the ICDM coordinator will be published on mi-support under [Partner Contact Information](#). County staff may update the contact information by using the *Report an Update* button on the county's web page on mi-support. The FOC ICDM coordinator will work with OCS Central Operations by:

- Being responsible for reporting insurance-related problems/issues to OCS Central Operations;
- Providing obligor case information and establishing a line of communication concerning the potential lien and levy activities with OCS Central Operations staff;
- Providing a faxed copy of the motion and hearing information that affects the lien/levy to OCS Central Operations if a copy was not already received from the obligor and noted on the NOTE screen within five business days following the date the FOC received the information; and
- Coordinating hearing requests and determining whether more information for the administrative review or motion filed with the circuit court is needed from OCS Central Operations staff.

### 10.2 AG's Office

OCS has entered into an agreement with the AG's office for representation in insurance matters. To coordinate this representation:

- OCS and the AG will each appoint insurance liaisons to coordinate enforcement. The appointed liaisons will be the sole contact between the agencies;
- The AG liaison will have access to MiCSES, but may request that OCS staff provide additional information from the case file. OCS staff will provide relevant information when requested; and

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<sup>44</sup> The Friend may also designate one alternate FOC ICDM coordinator by informing OCS Central Operations staff of the alternate in writing. The alternate must notify OCS Central Operations staff via email when (s)he takes on the FOC ICDM coordinator role.

- The OCS liaison will enter a case note on the NOTE screen describing the communications with the AG liaison.

If OCS Central Operations has reason to believe that the AG's office has an interest in prosecuting for felony non-support, the OCS liaison will inform the AG liaison that an ICDM exists.

## 11. Confidentiality Requirements for Records

IV-D staff and their representatives must always maintain a high degree of confidentiality when dealing with insurance issues,<sup>45</sup> especially when dealing with:

- Insurance policy and financial records; and
- Cases with a family violence indicator (FVI).

### 11.1 Insurance Records

OCS Central Operations, the AG's office and FOC staff must only use insurance, workers' compensation, and financial records received from an insurance network to the extent necessary to establish, modify or enforce child support obligations. Federal law strictly prohibits all other disclosures of financial records outside the IV-D program.

### 11.2 Family Violence Indicator (FVI)

The FVI will not affect the freezing of an amount to be paid unless there is a court order exempting the case from enforcement.<sup>46</sup> However, if the CP or child on the docket has "Yes" selected for the *Family Violence* indicator on the *Member Demographics* (DEMO) screen, then OCS Central Operations staff must not include the CP or child's name, if it is different from the court documents as reflected on the DEMO screen in the *Court Last Name* field or address information, unless an alternative address is provided. If the non-custodial parent (NCP) has "Yes" selected for the *Family Violence* indicator, then the NCP's name, address, and SSN must be provided on the documents. If the insurance carrier refuses to proceed with the lien because the name and address of the CP are omitted, OCS Central Operations staff will consult with OCS PDD for next actions.

## SUPPORTING REFERENCES:

Federal  
Section 7306 of the Deficit Reduction Act  
PL 104-193 of 1996  
PL 109-171  
29 United States Code (USC) 1001-1461

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<sup>45</sup> Ref: IV-D Memorandum 2014-009.

<sup>46</sup> Ref: Subsection 4.2.2, "Dockets Exempted by the FOC" of this manual section for more information about exemptions from enforcement.

42 USC 654(20)  
42 USC 654A(g)(1)(c)  
42 USC 654A(h)  
42 USC 666(a)(4)  
42 USC 666(c)(1)(G)  
45 Code of Federal Regulations (CFR) 303.21

OCSE Dear Colleague Letter (DCL) 00-52,  
*Multistate Financial Institution Data Match and  
Insurance Companies*

State

PA 295 of 1982  
PA 483 of 2004  
PA 484 of 2004  
PA 565 of 2002  
MCL 400.234  
MCL 400.235  
MCL 552.601  
MCL 552.602  
MCL 552.624b  
MCL 552.625a-i  
MCL 700.1302  
MCR 1.108  
MCR 2.602(B)(3)

**REVISION HISTORY:**

[IV-D Memorandum 2016-021](#)  
IV-D Memorandum 2013-016